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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1251 OF 2007
IN
FIRST APPEAL NO. 3028 OF 2006

1. Smt. Usha Purushottam Sharma
2. Kumar Anurag Purushottam Sharma
3. Kumari Ashwini Purushottam Sharma ... Applicants

V/s

1. The Manager,
   Oriental Insurance Company Ltd.
2. Shri Ramesh S. Yewale ... Respondents

ALONGWITH

CIVIL APPLICATION NO. 5157 OF 2006
IN
FIRST APPEAL NO. 3028 OF 2006

1. The Manager,
   Oriental Insurance Company Ltd. ... Applicant

V/s

1. Smt. Usha Purushottam Sharma
2. Kumar Anurag Purushottam Sharma
3. Kumari Ashwini Purushottam Sharma ... Respondents

Mr. R.R. Salvi for the applicants in C.A. No. 1251 of 2007 and for respondents in C.A. No. 5157 of 2006.

Ms. Kavita S. Anchan i/by M/s. M.V. Kini for the respondents in C.A. No.1251 of 2007 and for applicant in C.A. No. 5157 of 2006.

CORAM: S.B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATED: 5TH MARCH, 2007

P.C.:

1. By order dated 4th December, 2006 the original appellant was directed to deposit 50% of the awarded amount within a period of 8 weeks and ad-interim stay was granted in respect of the 50% amount till further orders. The respondents were directed to apply for withdrawal of the said amount after a period of 8 weeks. Therefore, the respondents have filed the C.A. No. 1251 of 2007. The amount of Rs.31,75,000/- has been deposited by the original appellant. The claimants are the original respondents and applicants in C.A. No. 1251 of 2007, namely, the wife and two children of the deceased. The wife was earlier representing both the children, however, Kumar Anurag is now 20 years and, therefore, major. Kumari Ashwini is minor. Taking into consideration these circumstances, we find it appropriate that 2/3 amount out of the 50% deposited amount shall be paid to the wife and Kumar Anurag and 1/3 amount of the 50% deposited amount shall be kept in the name of Kumari Ashwini. We, therefore, direct the Trial Court that the total deposited amount which is 50% of the awarded amount, shall be paid to the original claimants. However, 1/3 portion of the said amount is hereby directed to be kept in the name of Kumari Ashwini, her mother Smt. Usha being shown as a guardian, in the fixed deposit. The interest payable on

the said deposit shall be made payable to Smt. Usha, mother of Kumari Ashwini. The said deposits shall be carried out initially for a period of three years till the period she become major. On attaining the majorhood, the said amount be paid to her. The 2/3 amount of the deposited amount shall be paid to the claimant Smt. Usha and Kumar Anurag, respectively.

2. Thus, Civil Application No. 1251 of 2007 stands disposed of.

3. While granting the ad-interim stay, we have directed to deposit 50% amount of the award by order dated 4th December, 2006. However, we now direct that 50% amount of the award shall be deposited together with interest upto the date of deposit within a period of eight weeks from today. The amount shall be deposited in the Trial Court and the Trial Court is hereby directed not to disburse the said amount till the final orders. It is further directed that on deposit of the said amount, the Trial Court shall deposit the said amount with any nationalized bank initially for a period of three years and if the matter is not disposed of within a period of three years, then the Trial Court shall continue to deposit on year to year basis with the nationalized bank till final disposal of the appeal. If the amount is not

deposited within a period of 8 weeks by the Insurance Company, the original claimants would be at liberty to proceed with an execution.

4. Civil Application No. 5157 of 2006 stands accordingly disposed of.

5. Payment of Bhatta be made in both civil applications within a week from today.

(SMT. NISHITA MHATRE, J.) (S.B. MHASE, J.)